

## 46 Am. Jur. 2d Judges § 246

American Jurisprudence, Second Edition | February 2022 Update

### Judges

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### XII. Special, Substitute, or Pro Tem Judges

#### C. Rights, Powers, and Duties

## § 246. Duration of authority of substitute judge—Effect of presence or return of regular judge

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  25(2)

### Forms

Forms relating to recovery of disabled judge or revoking order to substitute judge, generally, see Am. Jur. Pleading and Practice Forms, Judges [\[Westlaw®\(r\) Search Query\]](#)

Where a special judge is elected or assigned to hold court in the absence of the regular judge, as opposed to presiding in a particular case, the appearance of the regular judge operates to vacate the office of special judge as to all matters except those necessary to make an orderly disposition of the matters that have been undertaken by the special judge.<sup>1</sup> It is reversible error for a regular judge to assume jurisdiction and pronounce judgment in a case pending before a special judge.<sup>2</sup>

Visiting judges may preside over a district court when the duly elected judge of that court is present and presiding over a different trial in a different courtroom.<sup>3</sup>

A judge pro tempore may not properly act as a judge of a court in one room while the regular judge of that court is exercising jurisdiction in another room.<sup>4</sup>

Where the regular judge resumes sitting in a case after the assignment of the visiting judge to the case has ended, the question is not whether the visiting judge had exclusive jurisdiction over the case under the terms of the assignment order, but whether the assignment order gave the visiting judge exclusive authority over the case.<sup>5</sup> An assignment order authorizing a visiting judge

to preside over all proceedings within the term of the assignment does not deprive the regular judge from presiding over later proceedings in cases commenced during the term of the visiting judge's assignment.<sup>6</sup>

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Footnotes

- 1 Daley v. Boroughs, 310 Ark. 274, 835 S.W.2d 858 (1992); Lucom v. Potter, 131 So. 2d 724 (Fla. 1961); Johnson v. Bussey, 95 S.W.2d 990 (Tex. Civ. App. Texarkana 1936), writ refused.
- 2 State v. Stevenson, 64 W. Va. 392, 62 S.E. 688 (1908).
- 3 Rogers v. State, 846 S.W.2d 883 (Tex. App. Beaumont 1993).
- 4 Survance v. State, 465 N.E.2d 1076 (Ind. 1984).
- 5 Davis v. Crist Industries, Inc., 98 S.W.3d 338 (Tex. App. Fort Worth 2003).
- 6 Sholars v. State, 2003 WL 21229544 (Tex. App. Houston 14th Dist. 2003).

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